

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OTMAR WITTINE,

Plaintiff, No. CIV S-03-1676 LKK EFB P

vs.

F. T. DESCHLER, et al.,

ORDER AND
FINDINGS & RECOMMENDATIONS

Defendants.

Plaintiff is a state prisoner proceeding with counsel suing for alleged civil rights violations. *See* 42 U.S.C. § 1983. On December 3, 2007, the court directed plaintiff to file a pretrial statement within 30 days. Plaintiff has not filed a pretrial statement or otherwise responded to that order. Accordingly, the court will recommend that this action be dismissed without prejudice. *See* Fed. R. Civ. P. 16(f); Local Rule 11-110.

In accordance with the above, IT IS HEREBY ORDERED that defendants are relieved from filing a pretrial statement pending further order of the court.

Further, it is hereby RECOMMENDED that this action be dismissed without prejudice. *See* Fed. R. Civ. P. 16(f); Local Rule 11-110.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days

1 after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
4 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
5 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

6 DATED: January 31, 2008.

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8 EDMUND F. BRENNAN
9 UNITED STATES MAGISTRATE JUDGE
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